

# COHEN & GREEN

September 8, 2023

Honorable Andrew L. Carter, Jr., U.S.D.J.  
United States District Court, Southern District of New York  
500 Pearl Street  
New York, NY 10007-1312

By Electronic Filing.

**Re: Phillips v. City of New York, 21-CV-8149 (ALC)(SLC)**

Dear Judge Carter:

My firm, with co-counsel represents Plaintiffs and the putative class in the case above.

With this letter, I have just filed Plaintiff's Third Amended Complaint ("TAC"), pursuant to the leave granted at the last conference. While at the last conference, I had stated that the only changes we intended to make were adding the new Defendants, and adding the related facts and theories of the relief, I wanted to flag one other change we have made.<sup>1</sup>

While the claim was likely fairly pled before (*see, e.g., Johnson v. City of Shelby*, 574 U.S. 10, 12 (2014)), and we would have likely raised in our substantive response to the motion to dismiss, particularly in light of the new guidance from the Department of Justice on exactly the subject of one of the issues in this case,<sup>2</sup> we have added a formally pled sixth cause of action under the Americans with Disabilities Act. Likewise, we have added a state law theory for medical malpractice under the cause of action for various state law claims, since that claim lies against the individual doctors who treated Mr. Phillips, and whose identity was only revealed after the months of Doe discovery.

In light of the statement I made at the conference, I did not want to appear to be hiding the ball here, and apologize for the oversight in what I said then.

As always, we thank the Court for its continued time and attention.

Respectfully submitted,

/s/

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J. Remy Green

<sup>1</sup> There are also some other very minor changes for accuracy. For example, we updated the status of one of my firm's previous class actions in the relevant section, since that status has changed.

<sup>2</sup> See Dep't of Just., *Guidelines for managing Substance Withdrawal in Jails* (June 2023), available at [https://www.cossup.org/Content/Documents/JailResources/Guidelines for Managing Substance Withdrawal in Jails 6-6-23 508.pdf](https://www.cossup.org/Content/Documents/JailResources/Guidelines%20for%20Managing%20Substance%20Withdrawal%20in%20Jails%206-6-23%20508.pdf)



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